IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 214 of 1992

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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N H DAVE - Appellant(s)
Versus
NARHARIBHAI B ZAVERI & 1 - Opponent(s)

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Appearance :
MR DIPAK A THAKER, Addl. Central Govt. Standing Counsel for Appellant(s) : 1,
MR JA ADESHRA for Opponent(s) : 1,
MS DARSHANA PANDIT, APP for Opponent(s) : 2,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 07/08/2006

ORAL JUDGMENT

This Appeal preferred under Section 378 Cr.PC arises from the judgment and order dated 10th January, 1991 passed by the learned Additional Chief

Metropolitan Magistrate, Ahmedabad in Criminal Case No.348/1986.

Pursuant to the complaint lodged by the Superintendent of Customs (Preventive), the accused was tried for the offence punishable under Section 135 of the Customs Act. It was alleged that on 4th February, 1986 the Superintendent of Customs raided the residential premises of the accused and recovered 270 pieces of diamond. The accused could not account for the said diamonds nor did he produce any documentary evidence of the source of the diamonds. The Superintendent of Customs had recorded statements of the accused and his wife one Meenaben, as envisaged by Section 108 of the Act. It was the case of the accused and his wife that the seized diamonds were inherited by them from the father of the accused. In the trial the complainant failed to establish even prima facie that the seized diamonds were smuggled into India. The accused examined an approved Valuer one Jashvantlal Shah (Exh.31) to establish that the seized diamonds were of the quality which is available in India. In view of the

aforesaid evidence on record, the learned Magistrate has recorded acquittal of the accused.

I have perused the evidence on record. I am of the opinion that the learned Magistrate has rightly appreciated the evidence on record. The order of acquittal recorded by the learned Magistrate does not warrant interference. The Appeal is dismissed.

(Ms. R.M.Doshit, J.)

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